

**REGULAR SESSION OF THE
BRIGHAM CITY COUNCIL
SEPTEMBER 2, 2010**

PRESENT:	Dennis Fife	Mayor
	Bruce Christensen	Councilmember
	Scott Ericson	Councilmember
	Ruth Jensen	Councilmember
	Bob Marabella	Councilmember (<i>arrived at 7:15</i>)
	Tyler Vincent	Councilmember
ALSO PRESENT:	Rick Bosworth	Human Resource Coordinator
	Jim Buchanan	Emergency Services Director
	Dave Burnett	Public Power Director
	Mary Kate Christensen	City Recorder
	Blake Fonnesebeck	Public Works Director
	Jared Johnson	Community Development Manager
	Paul Larsen	Economic Development Director
	Kristy Law	Recreation Manager
	Bruce Leonard	City Administrator
	Kirk Morgan	City Attorney
	Tyler Pugsley	Public Works Assistant Director
	Jason Roberts	Finance Director
	Paul Tittensor	Chief of Police

Mayor Fife called the meeting to order. The Reverence Period was given by Pastor Steve Barsuhn from the Rocky Mountain Bible Church. The scouts in the audience led the Pledge of Allegiance. A motion to approve the minutes of July 29 and August 5, 2010 Council meetings was made by Councilmember Christensen. The motion was seconded and carried.

Mayor Fife stated that the two items under New Business to discuss the Heritage and Cultural Arts Board should be tabled. More information is needed. He also stated that he considered moving Public Comment later in the meeting as suggested previously, but he felt it was best to keep it at the beginning of the meeting.

PUBLIC COMMENT

CONSENT

- New Hire, Community and Economic Development Department
- Revisions to Purchasing Policy to Change Local Vendor Preference
- Re-Appointments to Planning Commission
- Appointment and Re-Appointment to the Brigham City/Perry City Joint Advisory Board

PUBLIC HEARING

- Amendment to Free Speech Zones, Establishing the Procedure for Creating the Zones and Setting Restrictions, Describing When Sound Amplification Devices May be Used, and Setting Penalties for Unlawful Protest

SCHEDULED DELEGATION

- Peach Days Presentation
- Report on Buckle Up Brigham City Campaign
- Concerns Regarding Shut-Off Policy
- Report from the Bicycle Friendly Task Force

NEW BUSINESS

- Recommended Changes to Field Use and Fee Policy to Include a Penalty Clause
- Proposed Fee Increase for Recreation Program and Bowery Reservations
- Resolution Authorizing Brigham City to Enter into an Interlocal Cooperative Agreement to Form the Utah Infrastructure Agency
- Request for Approval of Ordinance Changing the Structure and Powers and Duties of the Heritage and Cultural Arts Advisory Board (*tabled*)
- Recommended Changes to the Heritage and Cultural Arts Advisory Board Bylaws (*tabled*)
- Request to Authorize Reimbursement of the Brigham City Mercantile & Manufacturing Association for Baron Woolen Mill Reuse Study from the National Trust for Historic Preservation Grant

OTHER BUSINESS

PUBLIC COMMENT

Councilmember Jensen said the Council discussed having citizens speak at the end of the meeting. She asked if the Mayor had considered this. Mayor Fife stated that he was willing to do that at any point if someone wants to.

CONSENT

New Hire, Community and Economic Development Department

It was recommended the Council approve the hire of Dennis Allen as a GIS Specialist II, Grade 48, effective September 3, 2010.

Revisions to Purchasing Policy to Change Local Vendor Preference

It was recommended the purchasing policy be changed to give preference to local vendors if they are within \$1500 of the minimum bid.

Re-Appointments to Planning Commission

It was recommended Joan Peterson and Eve Jones be reappointed to the Planning Commission.

Appointment and Re-Appointment to the Brigham City/Perry City Joint Advisory Board

It was also recommended Larry Jensen be appointed to the Brigham City/Perry City Joint Advisory Board, and Barbara Poelman be reappointed to the same Board.

MOTION: A motion to approve the Consent Agenda was made by Councilmember Ericson, seconded by Councilmember Christensen and unanimously carried.

PUBLIC HEARING

Amendment to Free Speech Zones, Establishing the Procedure for Creating the Zones and Setting Restrictions, Describing When Sound Amplification Devices May be Used, and Setting Penalties for Unlawful Protest

Mr. Leonard came forward and explained that this ordinance creates a Free Speech Zone to allow anyone that wants to participate in a demonstration to do so safely. It will allow the City to address traffic control and separate them from anyone who might oppose what they are doing. This ordinance has been revised from the original one presented to the Council to create a Free Speech Committee comprising of the City Administrator, City Attorney and Chief of Police to oversee the application process.

A motion to open the public hearing was made by Councilmember Christensen, seconded and carried.

Beth Gurrister - Ms. Gurrister emphasized the importance of establishing a free speech zone. She was impressed that the Council had the foresight to look ahead and plan for possible demonstrations. She applauded the City Council, City Administration, the Chief of Police and the City Attorney for putting together and implementing this process for the free speech zone. Without it, there could have been inadvertent and unintended violations of existing law. Providing a free speech zone is one of the most important elements the Council could do to assure that free speech and freedom of assembly takes place in a very civil procedure. In this procedure of safety, the demonstrators know they have the appropriate place, an appropriate time and an appropriate way to demonstrate. This generates confidence in them and goes a long way toward public civility. Ms. Gurrister said she is part of an interfaith group that Councilmember Christensen started that emphasizes public civility in everything they do. She felt that this obvious absence of public civility throughout this nation is of great concern. More than the issue, it's how people handle the issues. The lack of respect, the unwillingness to listen to a different perspective, is contrary to the foundation of this nation. Brigham City could be the shining City on the hill, where the light is shining on freedom for everyone. That begins with respect for others with different cultural, different religious faith, or the choice of no religious faith.

There were no further comments from the public. A motion to close the public hearing was made by Councilmember Ericson, seconded by Councilmember Vincent and unanimously carried.

Councilmember Jensen asked about Paragraph E, which states, *"Restrictions. In any area designated as a free speech zone area, protestors may not engage in activities that obstruct or impede pedestrians or vehicles, or harass by standards with physical contact. Protestors may not tie, nail or otherwise physically attach any banners, signs, pictures, instructional materials, symbols or other personal property to any City property or private property."* She said reference to private property seems vague. She understands that protestors cannot go onto her private property, but it leaves it open to whether private property owners may not be able to protest on their own private property. Mayor Fife explained that this refers to someone applying for a group. Anyone can post something on their own property.

MOTION: Councilmember Christensen made a motion to approve the ordinance amending the free speech zones establishing the procedure for creating the zones and setting restrictions. The motion was seconded by Councilmember Ericson and unanimously carried.

SCHEDULED DELEGATION

Peach Days Presentation

Monica Holdaway, Director of the Chamber of Commerce, came forward and thanked the Council and Mayor for their support during Peach Days. City Staff has been great to work with. This year there will 20 floats and eight bands in the parade.

Report on Buckle Up Brigham City Campaign

Aleana Pierce from the Bear River Health Department came to the table and reviewed some of the activities City employees participated in during the Buckle Up Campaign. The Campaign began with a seat belt observation by Blake Fannesbeck. Employees started with a 76% use rate. There were several activities throughout the Campaign, ending with a barbeque lunch for all employees. Mr. Fannesbeck did another observation at the end of the Campaign and the use of seatbelts increased to 85%.

Concerns Regarding Shut-Off Policy

Ms. Stacia Anderson came forward and expressed concern with the current shut-off policies at the City. She explained that she was injured in a work accident last November. Her back is being treated for a slipped herniated disc and she had knee surgery and was on crutches for eleven weeks. Due to this, she is struggling financially. Through word of mouth, she was referred to the Bear River Association of Governments (BRAG). She put in an application last November for assistance with her utility bills through the HEAT Assistance Program. BRAG issued her a commitment letter. Ms. Anderson said the gas company accepted HEAT's payment in lieu of her payment and brought it current. However, Brigham City Corporation would not accept the commitment letter as a means for her power to stay on. This was her biggest issue. She asked the City Council to address this issue. BRAG is an assistance program and they had a commitment letter promising to pay a certain amount for her and she was still threatened to be shut off. The City's policy does not say anything about people going through a hardship and getting financial assistance through an establishment such as BRAG.

Mr. Roberts explained that the Billing Clerk told him she accepted the commitment letter. Ms. Anderson said when she came into the City on August 24 she was told she had to pay \$128. That day she scheduled to be on the agenda. BRAG is also helping her with a one-time housing assistance if Brigham City would provide a letter stating she had to pay \$128 to keep her power on. She was told they would not prepare the letter because she would accept the commitment letter. When this first happened in December a former employee would not accept commitment letters. The clerk told her there must have been a misunderstanding between her and Ms. Anderson because the clerk thought she was offering to pay in addition to what BRAG was paying.

Ms. Anderson said another concern is the disconnect fee. The policy states that if the utilities are disconnected the customer will be assessed a \$50 reconnect fee. However, the City charged a friend of her's \$50 when the meter reader went to the door, even though she had paid that morning. Mayor Fife explained that the policy

is that a customer has until 5:00 on a certain day to pay their bill and it can be turned off any time the following day. If the customer comes in after the deadline of 5:00, a \$50 fee will be charged. Ms. Anderson felt the policy needs to be reworded.

Councilmember Marabella said the customer has already gone 30 days past their due date, received a warning, then another 14 days with a warning, then it would be shut off. The City gives customers 45 days to pay their bill before they are shut off. Ms. Anderson explained that BRAG will not help in an emergency crisis unless they have received a pink notice. This does not allow enough time for the customer to go to BRAG for assistance.

Mayor Fife stated that irregardless of what BRAG does, the City gives customers 14 days after a pink notice to pay their bill. He added that the City is losing a lot of revenue due to non-payments. Last year alone the City lost approximately \$120,000 due to write-offs of utility bills. Councilmember Marabella said the Council tightened up this policy because it is not fair to the citizens to lose \$120,000 of revenue because a few citizens are getting that far behind. The City has an energy conservation employee that can help citizens reduce their utility usage. Another concern is whether the resident is prioritizing their bills by paying rent and utility bills first and getting rid of cell phones and other unnecessary items. Ultimately, the Council is trying to be fair to 5,000 households. Ms. Anderson said it would actually help those citizens that are asking for assistance if the City tightened up the policy and not bill so far in arrears.

MOTION: Councilmember Ericson made a motion to have staff relook at the City's shutoff policy and address the issue with BRAG and clergy so it is mentioned in the policy rather than doing it on a case-by-case basis. Councilmember Christensen added that someone should contact BRAG and let them know that the City will accept commitment letters. The motion was seconded by Councilmember Christensen. Councilmember Jensen thanked Ms. Anderson for bringing this to the attention of the Council. She said they are sympathetic to Brigham City and the economic downturn that everyone is experiencing. Ms. Anderson recommended the Council reword the policy to state that if a customer's service is discontinued a reconnect fee will be charged, rather than disconnected. Councilmember Marabella explained that the fee is to cover the wages of staff to prepare the shut-off notices and to drive to the home and back. The motion unanimously carried.

Report from the Bicycle Friendly Task Force

Mr. Mike Leavitt, Chair of the Bicycle Friendly Task Force, stated that the single most important element of safety is increased awareness. It is a change of cultural. Brigham City is not really aware of bicycles. Cultural changes do not come from task forces, they come from the top. To increase the safety, the rules of the road need to be clarified. The task force has been working with the PTAs in the community to teach children the rules of bicycling.

Through City publications and police involvement, they can clarify the rules of the road for adult bicyclists. There is also a need to promote the rights of the cyclists as any other vehicles on the road.

There also should be approved bike paths, including mountain biking. The task force recommended four miles of bike paths.

There are several possible funding sources for bike paths. Some of these are federal funding, which the task force could not apply for, but the City could. Some require joining various councils, such as the Wasatch Front Regional Council.

The Task Force recommended bike lanes from 600 North to 600 South via 200 East and 300 West. There will also be signs marking them as bike lanes. This will be a start that will show people that Brigham City is interested in becoming bicycle friendly. Preliminary costs for materials is \$4,000. This includes 16 signs, 34 bicycle symbols on the road and 20,000' of painted lines on the road. Labor would be close to \$7,000.

The Task Force also recommended that the City continue to work with the Bird Refuge for bike lanes on the new road.

Mr. Leavitt stated that the Task Force found that road biking and mountain biking really do not mix. The Task Force recommended that a special committee be formed to plan and implement mountain bike trails on the mountain east of Mantua Reservoir.

The goals of the Task Force are as follows:

- ◆ Increase bicycle awareness
- ◆ Train the Police Department to be bicycle advocates
- ◆ Promote increased bike usage for health and environmental reasons
- ◆ Continue with periodic news articles that promotes Brigham City as a bicycle friendly City
- ◆ Incorporate complete streets as a policy in City planning

Mayor Fife felt that the recommendation to form a committee should be considered. Then the committee can help write the grants and have the City apply. Councilmember Jensen suggested including the County as well.

MOTION: Councilmember Ericson made a motion to form a Bicycle Friendly Committee, using the members of the Task Force as the committee members and involve staff. They can work with the Planning Commission to go through the street program. This will have to be done with an ordinance in another Council meeting. The motion was seconded by Councilmember Marabella and unanimously carried.

NEW BUSINESS

Recommended Changes to Field Use and Fee Policy to Include a Penalty Clause

Ms. Kristy Law came forward and explained that the City has a field use fee policy. However, over the past year there have been two groups that use Pioneer Park and are not following the City's policy. Both groups are adults and are bringing leagues with officials and game schedules. They play on Sunday when they don't think anyone from the City will see them. City staff has approached these groups and asked for compliance and received false phone numbers and false information.

Mr. Pugsley explained that the concern is that if teams don't register with the city and pay their fees, staff does not know who is on the fields and when. This means they cannot adjust their watering times and field maintenance. For example, this spring the parks were looking really good with no dry spots. Then there started to be dry spots in two of the parks. Staff discovered that these leagues were tightening the flow controls on the sprinklers. They also put things on top of sprinklers to keep them from spraying and mark their own fields. They have caused a lot of problems in the parks.

MOTION: Councilmember Jensen made a motion to revise the Recreation Facility, Park and Support Field Use and Fee Policy to include a penalty clause. The motion was seconded and unanimously carried.

Proposed Fee Increase for Recreation Program and Bowery Reservations

Ms. Law explained that the Recreation Department now has online registration for recreation programs and bowery reservations. There is an annual fee of approximately \$3,000 for this program. She recommended a \$2.00 increase in fees to cover this expense. She added that everyone will have to register online.

Councilmember Marabella asked if this program could be offset by decreased manhours. Councilmember Christensen added that normally when business goes to an online program there is a cost savings, not a cost increase. Ms. Law explained that the City is assessed a fee when people pay with a credit card.

MOTION: Councilmember Marabella made a motion to adopt the proposed fee increase for recreation program and bowery reservations as presented. The motion was seconded by Councilmember Jensen and carried unanimously.

Resolution Authorizing Brigham City to Enter into an Interlocal Cooperative Agreement to Form the Utah Infrastructure Agency (UIA)

Mr. Leonard and Mr. Morgan came to the table. Mr. Morgan stated that he has reviewed the agreement and has cut any language regarding the City's bonding. This has been the major issue. This agreement is only to join the UIA, become a board member and nothing more. Any financing of any kind will have to come back to the Council for approval. Passing this agreement does not make the City indebted to UTOPIA.

Mr. Leonard explained that UTOPIA is going to move forward with the feasibility study to look at all members of the UIA to look at the model they are projected and to incorporate the \$16.1 million federal money they received. They will review the information from the feasibility study to make sure they are moving in the right direction and are targeting the cities they want to build out first and who should finance those. When the study is completed they will bring that information to each member City and the cities will then decide how they will participate or if they want to participate. Councilmember Jensen asked if this is in writing. Mr. Leonard said it is not written yet. Mr. Morgan explained that the service agreement is a separate agreement and would commit the cities to any funds and how the build out will be done. Mayor Fife added that it is written in the resolution that UTOPIA recognizes what Brigham City has done and the City's current system will not be part of the UIA.

The way this is structured, if Brigham City is not a member of UIA, the City will not get paid back on its original commitment. The UIA structure is going to control all the finances that go into the UTOPIA organization and unless Brigham City is a member, will have no vote. They do recognize, however, that Brigham City has contributed more than other cities.

MOTION: A motion to approve the resolution authorizing Brigham City to enter into an interlocal cooperative agreement to form the Utah Infrastructure Agency was made by Councilmember Marabella and seconded by Councilmember Christensen. Councilmember Jensen reminded the Council that the City is still under the obligation for the pledge money which is up to \$396,000 per year for at least 29 years with 2% increase. The City is still obligated to pay the SAA money for 20 years, with a possibility of refinancing. If the City joins the UIA none of this obligation will go away. It does, however, give the City a 3.34% voting power, but it also obligates the City to pay working capital assessments, membership dues, service dues and the possibility of paying day-to-day operations for a minimum of 5 to a maximum of 50 years. This is in addition to the City's current obligations. The UIA is under a charter contract which makes it very difficult to move, change, or amend the contract because each City that is under the UIA has to give permission to do anything different. With this, and with the existing problems the City has had with UTOPIA, such as people wanting out of their contracts. It was promised to her and the citizens that this would be resolved by May 17. Another problem is that services are having multiple problems throughout the infrastructure. Over 100 people have not been connected but have signed up to get services and businesses that want it cannot get it. Some people are getting billed for services they do not have. The City has tried to work with UTOPIA, giving them suggestions and ideas on the City's concerns, and they still have not listened. The only thing UTOPIA has proven is that they know how to spend the City's money and give poor service. Joining the UIA does not help Brigham City. It only helps UTOPIA get more funding and allows other cities to hook up to fiber without having to put liens on their homes like Brigham City residents had to. UTOPIA should fix these problems and use the \$16 million stimulus money to take the liens off Brigham City residents' homes. UTOPIA must first live up to their promises so Brigham City can move forward in good faith.

The Mayor clarified that there is no assessments or commitments unless the Council approves them. They can assess the City, but the City does not have to pay unless the Council approves it. Mr. Morgan agreed, adding that the UIA's attorney has stated the same thing in numerous meetings.

Councilmember Marabella commented on Councilmember Jensen's statement regarding May 17. He said he doesn't blame anybody but this Council. If there are still things that need

to be worked out, the Council needs to step up and put a plan together. Blame can be given to UTOPIA or anyone else, but it is time for the Council to step up and put a plan together on the people that do not have service yet, or the older people that do not want the service. We need to move forward instead of talking.

Councilmember Marabella added that on a positive note, he received a call from an individual that wanted to sell their house. They told him that fiber optics is the most significant and greatest thing the City has ever done for the citizens.

Mayor Fife said he did not remember stating that something would be done by May 17. He agreed that it is an ongoing problem and that and those that have not been hooked up but are paying on the SAA should be part of the negotiations with UTOPIA and UIA. Mr. Leonard is going to speak with them about these two issues next week. Councilmember Christensen suggested that when there is an updated list, a work session be held to put together a plan to resolve these issues. Mr. Morgan added that they have been in contact with UTOPIA attorneys and the City's bond counsel regarding these issues.

The Mayor called for a vote on the motion. Councilmember Christensen, Councilmember Ericson, Councilmember Marabella and Councilmember Vincent voted aye. Councilmember Jensen voted nay. The motion carried 4-1.

Request to Authorize Reimbursement of the Brigham City Mercantile & Manufacturing Association for Baron Woolen Mill Reuse Study from the National Trust for Historic Preservation Grant

Mr. Larsen came forward and explained that the City received a grant from the National Trust for Historic Preservation in 2005 for a Reuse Feasibility Study for the Baron Woolen Mill. The owner was going to provide a \$5,000 cash match and the City would apply for the grant. The study was finally completed in 2009. This request is for payment for the reimbursement. The City has received the grant money and it is in the budget.

MOTION: Councilmember Marabella made a motion to authorize reimbursement of the Brigham City Mercantile and Manufacturing Association for Baron Woolen Mill Reuse Study from the National Trust for Historic Preservation Grant. The motion was seconded by Councilmember Jensen and unanimously carried.

OTHER BUSINESS

Mayor Fife asked the Council if they want to schedule a work session to discuss the Horse Butte Wind Project contract or discuss it during a regular Council meeting. The Council set a work session for September 27 at 12:00 noon if UAMPS is able to attend. Mr. Leonard suggested a few councilmembers at a time meet with UAMPS at their office. Mr. Leonard will schedule some time with UAMPS and find out what the deadline is for joining the project. If a work session is needed it will be held on the 27.

A motion to adjourn was made by Councilmember Christensen. The motion was seconded and carried unanimously. The meeting adjourned at 9:08 p.m.